

## 11. Regulations of the Trust Fund for Victims<sup>+</sup>

Contents	Page
<b>PART I. MANAGEMENT AND OVERSIGHT OF THE TRUST FUND</b> .....	350
Chapter I. The Board of Directors .....	350
Section I. Election of a Chair of the Board of Directors .....	350
Section II. Meetings .....	350
Section III. Decisions of the Board of Directors .....	351
Section IV. Costs of the Board of Directors.....	351
Chapter II. The Secretariat .....	351
Section I. Seat and establishment .....	351
Section II. Reporting of the Secretariat.....	351
<b>PART II. RECEIPT OF FUNDS</b> .....	351
Chapter I. Primary considerations.....	351
Chapter II. Voluntary contributions .....	352
Chapter III. Money and other property collected through fines or forfeiture.....	353
Chapter IV. Resources collected through awards for reparations.....	353
Chapter V. Resources allocated by the Assembly of States Parties .....	353
Chapter VI. Operational issues regarding the receipt of funds.....	354
<b>PART III. THE ACTIVITIES AND PROJECTS OF THE TRUST FUND</b> .....	354
Chapter I. Use of funds .....	354
Section I. Beneficiaries.....	354
Section II. Resources collected through fines or forfeiture and awards for reparations .....	355
Section III. Other resources of the Trust Fund.....	355
Chapter II. Implementation of the activities and projects of the trust fund.....	355
Section I. General principles .....	355
Section II. Outreach .....	356
Section III. If the activities and projects of the Trust Fund are triggered by a decision of the Court .....	356

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Chapter III. Individual awards to victims pursuant to rule 98(2) .....	357
Section I. Cases where the Court identifies each beneficiary.....	357
Section II. Cases where the Court does not identify the beneficiaries.....	357
Section III. Verification.....	357
Section IV. Disbursement of reparations awards .....	358
Chapter IV. Collective awards to victims pursuant to rule 98(3) .....	358
Chapter V. Awards to an intergovernmental, international or national organization, pursuant to rule 98(4) .....	358
<b>PART IV. REPORTING REQUIREMENTS .....</b>	<b>359</b>
<b>PART V. FINAL PROVISIONS .....</b>	<b>358</b>
Chapter I. Amendments .....	358
Chapter II. Entry into force .....	358

## **PART I           MANAGEMENT AND OVERSIGHT OF THE TRUST FUND**

### **CHAPTER I       THE BOARD OF DIRECTORS**

#### *Section I           Election of a Chair of the Board of Directors*

1.       A Chair shall be elected by an absolute majority of the members of the Board of Directors. The Chair shall serve until the end of his/her respective term as Board member. He/she shall be eligible for re-election as Chair once. If the Chair finds it necessary to be absent during a meeting or any part thereof, he/she may designate another Board member to take his/her place. If the Chair is unable to perform his/her functions, a new Chair shall be elected for the unexpired term.

2.       The Chair shall be responsible for coordinating the work of the Board of Directors.

#### *Section II          Meetings*

3.       The Board of Directors shall meet in regular session at least once a year at the seat of the Court.

4.       The Board may hold special sessions when circumstances so require, and the Chair shall fix the date of commencement, the duration and the location of each such special session. Special sessions may be held in person, or by telephone, web or video conferencing.

5.       The Chair shall determine the provisional agenda for the regular and special sessions of the Board. The Chair may receive suggestions for agenda items from other members of the Board, the Bureau of the Assembly of States Parties, the President of the Court, the Prosecutor and the Registrar. Any item proposed for inclusion in the agenda shall be accompanied by an explanatory memorandum and, if possible, by basic documents or by a draft decision. All materials shall be distributed to members of the Board sufficiently in advance and, where possible, at least one month in advance of the session. The provisional agenda for any session shall be submitted for consideration and adoption to the Board of Directors at the commencement of that session.

6.       The Chair shall preside over each session.

7.       The Registrar shall participate in sessions of the Board in an advisory capacity. Members of the Trust Fund Secretariat may attend sessions of the Board.

8.       The Board of Directors may invite others with relevant expertise to participate, as appropriate, in specified sessions of the Board and to make oral or written statements and provide information on any question under consideration.

9.       The Board of Directors shall meet in closed session unless it decides otherwise. Decisions and minutes of the Board of Directors shall be made public, and shall be communicated, as appropriate, to the Court and to interested States, to implementing partners and, to the extent possible, to beneficiaries, subject to confidentiality. At the close of a meeting of the Board of Directors, the Chair may issue a communiqué through its Secretariat or the Registry, as appropriate.

10.      For the purposes of these Regulations, all participating Board members shall be considered present during telephone, web or video conferences. Moreover, an electronic signature may be used to sign a document or agreement.

11. The working languages of the Board of Directors shall be English and French. The Board may decide that one of the other working languages of the Assembly of States Parties may be used where that language is understood and spoken by the majority of persons concerned and where its use would facilitate the proceedings of the Board.

*Section III Decisions of the Board of Directors*

12. Decisions of the Board of Directors shall be taken in regular or special sessions, in person as well as by telephone, web or video conferencing.

13. Every effort shall be made to reach decisions by consensus. If consensus cannot be reached, all decisions must be approved by an absolute majority of the voting members of the Board.

14. If necessary, the Chair shall take provisional decisions of an administrative nature between sessions in consultation with the Secretariat. Subsequently, the Chair shall submit the decision(s) to the Board for their approval in accordance with the procedures stipulated in paragraph 13 above.

15. The Board of Directors may adopt such additional administrative procedures as are necessary to implement these Regulations.

*Section IV Costs of the Board of Directors*

16. Members of the Board of Directors shall act in their personal capacity on a pro bono basis.

**CHAPTER II THE SECRETARIAT**

*Section I Seat and establishment*

17. The Secretariat, established in accordance with Resolution of the Assembly of States Parties ICC-ASP/3/Res.7 shall provide such assistance as necessary for the proper functioning of the Board of Directors in carrying out its tasks.

*Section II Reporting of the Secretariat*

18. The Secretariat shall provide periodic reports to the Board on its activities.

19. Bearing in mind the independence of the Secretariat, it shall consult the Registrar on all administrative and legal matters for which it receives the assistance of the Registry.

**PART II RECEIPT OF FUNDS**

**CHAPTER I PRIMARY CONSIDERATIONS**

20. The Board of Directors shall ensure, through a variety of means, publicity regarding the Trust Fund and the plight of victims of crimes within the jurisdiction of the Court, as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families.

21. The Trust Fund shall be funded by:

(a) Voluntary contributions from governments, international organizations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Assembly of States Parties;

(b) Money and other property collected through fines or forfeiture transferred to the Trust Fund if ordered by the Court pursuant to article 79, paragraph 2, of the Rome Statute (“the Statute”);

(c) Resources collected through awards for reparations if ordered by the Court pursuant to rule 98 of the Rules of Procedure and Evidence;

(d) Such resources, other than assessed contributions, as the Assembly of States Parties may decide to allocate to the Trust Fund.

## CHAPTER II VOLUNTARY CONTRIBUTIONS

22. The Board, as part of its annual report to the Assembly of States Parties on the activities and projects of the Trust Fund, shall present an annual appeal for voluntary contributions to the Trust Fund.

23. The Board, with the support of the Secretariat, shall establish contact with governments, international organizations, individuals, corporations and other entities to solicit voluntary contributions to the Trust Fund.

24. The Board shall adopt guidelines on how to solicit financial contributions from private institutions.

25. The Trust Fund shall take receipt of all voluntary contributions from sources stipulated in Resolution of the Assembly of States Parties ICC-ASP/1/Res.6, paragraph 2(a), and shall note the sources and amounts received.

26. The Board shall establish mechanisms that will facilitate the verification of the sources of funds received by the Trust Fund.

27. <sup>1</sup>Voluntary contributions from governments shall not be earmarked. Voluntary contributions from other sources may be earmarked by the donor for up to one third of the contribution for a Trust Fund activity or project, so long as the allocation, as requested by the donor, fulfils the criteria listed in (a) and (b) of this regulation. The above restrictions may, however, be waived when the funds have been raised at the initiative of the members of the Board of Directors and/or the Executive Director, provided that there is full compliance with the following,

(a) benefits victims as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families;

(b) would not result in discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or other origin, property, birth or other status, provided that contributions aimed at assisting those enjoying specific protection under international law should not be considered to be discriminatory.

28. In the event that a voluntary contribution is earmarked and the related purpose cannot be achieved, the Board shall allocate the contribution to its General Account subject to the agreement of the donor.

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<sup>1</sup> As amended by resolution ICC-ASP/6/Res.3.

29. The Board shall regularly review the nature and level of voluntary contributions in order to ensure that the conditions in paragraph 27 are constantly met

30. The Board shall refuse voluntary contributions

(a) which are deemed not to be consistent with the goals and activities of the Trust Fund;

(b) which are deemed to be earmarked in a manner inconsistent with paragraph 27. Before refusing such a contribution, the Board may seek a decision by the donor to withdraw the earmarking or to change it in an acceptable manner.

(c) which would affect the independence of the Trust Fund.

(d) the allocation of which would result in a manifestly inequitable distribution of available funds and property among the different groups of victims.

### CHAPTER III MONEY AND OTHER PROPERTY COLLECTED THROUGH FINES OR FORFEITURE

31. The Board of Directors shall, at the request of the Chamber pursuant to rule 148 of the Rules of Procedure and Evidence, make written or oral observations on the transfer of fines or forfeitures to the Trust Fund.

32. The Board shall, at the request of the Presidency, submit written or oral observations on the disposition or allocation of property or assets in accordance with rule 221 of the Rules of Procedure and Evidence.

33. The Trust Fund shall take receipt of all money and other property collected through fines or forfeiture that is transferred, by order of the Court, to the Trust Fund.

### CHAPTER IV RESOURCES COLLECTED THROUGH AWARDS FOR REPARATIONS

34. The Trust Fund shall take receipt of resources collected through awards for reparations and shall separate such resources from the remaining resources of the Trust Fund in accordance with rule 98 of the Rules of Procedure and Evidence. It shall note the sources and amounts received, together with any stipulations contained in the order of the Court as to the use of the funds.

### CHAPTER V RESOURCES ALLOCATED BY THE ASSEMBLY OF STATES PARTIES

35. In its annual report to the Assembly, the Board of Directors may make suggestions of financial or other contributions, other than assessed contributions, that the Assembly of States Parties may allocate to the Trust Fund.

36. Where no such stipulation has been made by the Assembly of States Parties as to the uses of the financial or other contributions other than assessed contributions, the Trust Fund may allocate these contributions to its General Account for the benefit of victims, as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families.

## CHAPTER VI OPERATIONAL ISSUES REGARDING THE RECEIPT OF FUNDS

37. Bank account(s) of the Trust Fund shall be opened in conformity with rule 108(1) of the Financial Regulations and Rules.

38. The accounting system of the Trust Fund shall allow for the separation of funds to facilitate the receipt of earmarked contributions, money and other property collected through fines or forfeiture transferred by the Court where the Court has stipulated particular usages, or resources collected through awards for reparations.

39. A computer tracking system shall be established to enable tracking of, inter alia:

(a) The sources of funds received as stipulated in resolution 6, paragraph 2, including the name of the donor, the location, the region, the date and the amount of the contribution;

(b) All requests for earmarked contributions, including the nature of the request, and what was ultimately agreed upon and received;

(c) All pledges received, the date and nature of the pledge, any follow-up by the Court, and the date on which funds were actually received;

(d) Separation of funds within the Trust Fund on the basis of categories of restrictions on use and on the basis of actual restrictions;

(e) All resources that have been attributed by the Trust Fund, sorted by sources of funds, by the nature of the attribution, and by beneficiary(ies);

(f) Receipt by beneficiaries of all attributed resources, by the date of the award, by the date of receipt by the beneficiary, where possible, or by the date of payment by the donor;

(g) All resources that have been attributed by way of grants to organizations. A programme that is separate but linked to the main system will monitor by grantee: the beneficiary group, the object of the grant, the amount of the grant, obligations under the grant contract, reporting deadlines, verification of completion and the accomplishment of results.

40. The Secretariat shall take receipt of resources that the Assembly of States Parties may decide to allocate to the Trust Fund. It shall note the sources and amounts received, together with any stipulations contained as to the use of the funds.

41. The Board of Directors shall advise the Court of any difficulties or delays in the receipt of funds.

## **PART III THE ACTIVITIES AND PROJECTS OF THE TRUST FUND**

### CHAPTER I USE OF FUNDS

#### *Section I Beneficiaries*

42. The resources of the Trust Fund shall be for the benefit of victims of crimes within the jurisdiction of the Court, as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families.

*Section II Resources collected through fines or forfeiture and awards for reparations*

43. When resources collected through fines or forfeiture or awards for reparations are transferred to the Trust Fund pursuant to article 75, paragraph 2, or article 79, paragraph 2, of the Statute or rule 98, sub-rules 2-4, of the Rules of Procedure and Evidence, the Board of Directors shall determine the uses of such resources in accordance with any stipulations or instructions contained in such orders, in particular on the scope of beneficiaries and the nature and amount of the award(s).

44. Where no further stipulations or instructions accompany the orders, the Board of Directors may determine the uses of such resources in accordance with rule 98 of the Rules of Procedure and Evidence, taking into account any relevant decisions issued by the Court on the case at issue and, in particular, decisions issued pursuant to article 75, paragraph 1, of the Statute and rule 97 of the Rules of Procedure and Evidence.

45. The Board of Directors may seek further instructions from the relevant Chamber on the implementation of its orders.

46. Resources collected through awards for reparations may only benefit victims as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families, affected directly or indirectly by the crimes committed by the convicted person.

*Section III Other resources of the Trust Fund*

47. For the purpose of these regulations, “other resources of the Trust Fund” set out in of rule 98, paragraph 5, of the Rules of Procedure and Evidence refers to resources other than those collected from awards for reparations, fines and forfeitures.

48. Other resources of the Trust Fund shall be used to benefit victims of crimes as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families, who have suffered physical, psychological and/or material harm as a result of these crimes.

**CHAPTER II IMPLEMENTATION OF THE ACTIVITIES AND PROJECTS OF THE TRUST FUND**

*Section I General principles*

49. The Board of Directors may consult victims as defined in rule 85 of the Rules of Procedure and Evidence and, where natural persons are concerned, their families as well as their legal representatives and may consult any competent expert or any expert organisation in conducting its activities and projects.

50. For the purposes of these regulations, the Trust Fund shall be considered to be seized when:

(a) (i) the Board of Directors considers it necessary to provide physical or psychological rehabilitation or material support for the benefit of victims and their families; and

(ii) the Board has formally notified the Court of its conclusion to undertake specified activities under (i) and the relevant Chamber of the Court has responded and has not, within a period of 45 days of receiving such notification, informed the Board in writing that a specific activity or project, pursuant to rule 98, sub-rule 5 of the Rules



of Procedure and Evidence, would pre-determine any issue to be determined by the Court, including the determination of jurisdiction pursuant to article 19, admissibility pursuant to articles 17 and 18, or violate the presumption of innocence pursuant to article 66, or be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

(iii) Should there be no response from the Chamber or should additional time be needed by the Chamber, consultations may be held with the Board to agree on an extension. In the absence of such an agreement, the extension shall be 30 days from the expiry of the period specified in sub-paragraph (a) (ii). After the expiry of the relevant time period, and unless the Chamber has given an indication to the contrary based on the criteria in sub-paragraph (a)(ii), the Board may proceed with the specified activities.

(b) When the Court makes an order for reparations against a convicted person and orders that the award be deposited with or made through the Trust Fund in accordance with rule 98, sub-rules 2 to 4 of the Rules of Procedure and Evidence.

## *Section II      Outreach*

51. Once the Trust Fund has been seized in accordance with paragraph 50, the Chair of the Board of Directors may issue a communiqué through its Secretariat or the Registry, as appropriate.

52. The communiqué may indicate the basis for its activities and projects in accordance with paragraph 50 and may provide any additional information, as appropriate. A call for voluntary contributions may accompany the communiqué.

53. The Board of Directors may engage in any outreach and information campaigns it deems appropriate for the purpose of raising voluntary contributions. The Board of Directors may ask for the assistance of the Registrar in this matter.

## *Section III      If the activities and projects of the Trust Fund are triggered by a decision of the Court*

54. When the Court orders that an award for reparations against a convicted person be deposited with the Trust Fund or made through the Trust Fund in accordance with rule 98, sub-rules 2 to 4, of the Rules of Procedure and Evidence, the Secretariat shall prepare a draft plan to implement the order of the Court, to be approved by the Board of Directors.

55. Subject to the order of the Court, the Trust Fund shall take into account the following factors in determining the nature and/or size of awards, inter alia: the nature of the crimes, the particular injuries to the victims and the nature of the evidence to support such injuries, as well as the size and location of the beneficiary group.

56. The Board of Directors shall determine whether to complement the resources collected through awards for reparations with “other resources of the Trust Fund” and shall advise the Court accordingly. Without prejudice to its activities under paragraph 50, sub-paragraph (a), the Board of Directors shall make all reasonable endeavours to manage the Fund taking into consideration the need to provide adequate resources to complement payments for awards under rule 98, sub-rules 3 and 4 of the Rules of Procedure and Evidence and taking particular account of ongoing legal proceedings that may give rise to such awards.

57. The Trust Fund shall submit to the relevant Chamber, via the Registrar, the draft implementation plan for approval and shall consult the relevant Chamber, as appropriate, on any questions that arise in connection with the implementation of the award.

58. The Trust Fund shall provide updates to the relevant Chamber on progress in the implementation of the award, in accordance with the Chamber's order. At the end of the implementation period, the Trust Fund shall submit a final narrative and financial report to the relevant Chamber.

### CHAPTER III INDIVIDUAL AWARDS TO VICTIMS PURSUANT TO RULE 98(2)

#### *Section I Cases where the Court identifies each beneficiary*

59. Where the Court orders that an award for reparations against a convicted person be deposited with the Trust Fund in accordance with rule 98, sub-rule 2, of the Rules of Procedure and Evidence, the draft implementation plan shall set out the names and locations of victims to whom the award applies, where known (and subject to confidentiality), any procedures that the Trust Fund intends to employ to collect missing details, and methods of disbursement.

#### *Section II Cases where the Court does not identify the beneficiaries*

60. Where the names and/or locations of the victims are not known, or where the number of victims is such that it is impossible or impracticable for the Secretariat to determine these with precision, the Secretariat shall set out all relevant demographic/statistical data about the group of victims, as defined in the order of the Court, and shall list options for determining any missing details for approval by the Board of Directors.

61. Such options may include:

(a) The use of demographic data to determine the members of the beneficiary group; and/or:

(b) Targeted outreach to the beneficiary group to invite any potential members of the group who have not already been identified through the reparations process to identify themselves to the Trust Fund, and, where appropriate, these actions may be undertaken in collaboration with interested States, intergovernmental organizations, as well as national or international non-governmental organizations. The Board of Directors may put in place reasonable deadlines for the receipt of communications, taking into account the situation and location of victims.

(c) The Secretariat may consult victims or their legal representatives and the families of individual victims, as well as interested persons, interested States and any competent expert or expert organization, in developing these options.

#### *Section III Verification*

62. The Secretariat shall verify that any persons who identify themselves to the Trust Fund are in fact members of the beneficiary group, in accordance with any principles set out in the order of the Court.

63. Subject to any stipulations set out in the order of the Court, the Board of Directors shall determine the standard of proof for the verification exercise, having regard to the prevailing circumstances of the beneficiary group and the available evidence.

64. A final list of beneficiaries shall be approved by the Board of Directors.

65. Taking into account the urgent situation of the beneficiaries, the Board of Directors may decide to institute phased or priority verification and disbursement procedures. In such cases, the Board of Directors may prioritize a certain sub-group of victims for verification and disbursement.

*Section IV Disbursement of reparations awards*

66. The Trust Fund shall determine the modalities for the disbursement of reparations awards to beneficiaries taking into account their present circumstances and locations.

67. The Trust Fund may decide to use intermediaries to facilitate the disbursement of reparations awards, as necessary, where to do so would provide greater access to the beneficiary group and would not create any conflict of interest. Intermediaries may include interested States, intergovernmental organizations, as well as national or international non-governmental organizations working in close proximity with the beneficiary groups.

68. The Secretariat shall put in place procedures to verify that awards were received by beneficiaries, following the implementation of a disbursement programme. Beneficiaries shall be required to acknowledge receipt of the award in writing or by other means of identification, and these acknowledgments shall be stored by the Secretariat. Additional spot checks and monitoring of the receipt of awards should be implemented to avoid unforeseen difficulties or the potential for fraud or corruption.

CHAPTER IV COLLECTIVE AWARDS TO VICTIMS PURSUANT TO RULE 98(3)

69. Where the Court orders that an award for reparations against a convicted person be made through the Trust Fund where the number of the victims and the scope, forms and modalities of reparations makes a collective award more appropriate, in accordance with rule 98, sub-rule 3, of the Rules of Procedure and Evidence, the draft implementation plan shall set out the precise nature of the collective award(s), where not already specified by the Court, as well as the methods for its/their implementation. Determinations made in this regard should be approved by the Court.

70. The Board of Directors may consult victims as defined in rule 85 of the Rules of Procedure and Evidence and, where natural persons are concerned, their families, as well as their legal representatives, and may consult any competent expert or expert organization on the nature of the collective award(s) and the methods for its/their implementation.

71. The Trust Fund may identify intermediaries or partners, or invite proposals for the implementation of the award.

72. The Secretariat shall put in place procedures to monitor the implementation of a collective award.

CHAPTER V AWARDS TO AN INTERGOVERNMENTAL, INTERNATIONAL OR NATIONAL ORGANIZATION, PURSUANT TO RULE 98(4)

73. Where the Court orders that an award for reparations against a convicted person be made through the Trust Fund to an intergovernmental, international or national organization, in accordance with rule 98, sub-rule 4, of the Rules of Procedure and Evidence, the draft implementation plan shall set out, where not already specified by the Court:

- (a) The concerned organization(s) and a summary of their relevant expertise;
- (b) A list of the specific functions that the concerned organization(s) is/are to undertake in fulfilment of the Court's order;
- (c) A memorandum of understanding and/or other contractual terms between the Board of Directors and the concerned organization(s) setting out roles and responsibilities, monitoring and oversight.

74. The Secretariat shall oversee the work of the concerned organization(s) in fulfilling the Court's orders, subject to the overall oversight of the Court.

75. The regulations that relate to individual awards to victims pursuant to rule 98, sub-rule 2, and collective awards to victims in accordance with rule 98, sub-rule 3, shall apply *mutatis mutandis* to the procedures of the Board in implementing rule 98, and sub-rule 4, as appropriate, depending on whether the Court has indicated that the award shall be individual or collective.

#### **PART IV REPORTING REQUIREMENTS**

76. The Board of Directors shall submit a written annual report on the activities of the Trust Fund to the Committee on Budget and Finance and the External Auditor and the Assembly of States Parties, through its President.

77. The Board of Directors shall also submit:

- (a) Any proposed budget for the Secretariat for review by the Committee on Budget and Finance; and
- (b) The accounts and financial statements of the Trust Fund for review by the External Auditor.

#### **PART V FINAL PROVISIONS**

##### **CHAPTER I AMENDMENTS**

78. Amendments to these Regulations may be proposed by a State Party, by the Court or by the Board of Directors. All proposals to amend these Regulations shall require the approval of the Assembly of States Parties in accordance with article 112(7) of the Statute.

##### **CHAPTER II ENTRY INTO FORCE**

79. These Regulations, and any amendments to them, shall enter into force immediately after their adoption by the Assembly of States Parties.

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